

contract, there must be a *consideration* upon which that contract is based. Two parties, free to contract, willing to contract, and a consideration proven from the complainant who sues for the benefit of the contract. Who denies that? Let some gentleman get up here and say that is not law, and let his name go upon the record as denying it.

Now, as between the master and slave, where is the freedom of the slave to contract? Where is his willingness to contract? And answer me, even if he was free to contract and willing to contract, if you have not by your law stripped him of all *ability* and *power* to contract by denying him altogether any legal status whatsoever?

You talk about slavery being a moral thing! I hold up this code, and I say that this night, under the stars of heaven, it is of all things the most fearful enormity. You have legislated year in and year out, for hundreds of years, about this class of people, and you have not put into this code one word that acknowledges the *mere humanity* of the negro: not one word. Under your law as it stands there, he is incapable even of making a *marriage* contract, as slavery exists in Maryland to-day.

Mr. BERRY, of Prince George's. Do I understand my friend to say, that under the laws of Maryland, it is not the privilege of a master to have his negroes married?

Mr. SANDS. I say no such marriage is a legal one.

Mr. CLARKE. Does it require statute law to legalize marriage? or do not the rights and validity of marriage exist by natural law independent of statute law?

Mr. SANDS. I will read to you legal gentlemen, who know its weight and authority, from so well known a book as Parsons on Contracts, page 340:

"The disability of the slave to contract seems to extend even to the contract of marriage. It has been distinctly held that the marriage usual in slave States, which is only *cohabitation with consent of the master, is not a legal marriage.*"

Mr. BERRY, of Prince George's. He is speaking of the civil contract, is he not?

Mr. SANDS. No, sir; he gives his reasons, and I will give them to you in his language:

"Chancellor Kent quotes from a case in which this is decided, words which state this, and so refer it to the want of legal formalities, as to suggest the inference that it is this want which makes the marriage void."

It is the case of *State vs. Samuel*, 2 Dev. and Batt. 177, 181. I went up to the library to get the report this morning, but some gentleman was ahead of me.

Mr. BERRY, of Prince George's. Not on our side of the subject.

Mr. SANDS. Parsons goes on to say:

"But, in another part of this case, it is put quite as much on the ground of their

*inability to contract.* There are statutes which speak of their marriage, but not in such a way as to declare such marriage a legal one, carrying all the incidents of marriage. These incidents seem to us so inconsistent with the condition of slavery, that *we do not see how any ceremonies, civil or religious, could make such marriage legal.*"

Now that is plain language.

"There may be usages or statutory provisions regulating this matter, which we have not found."

And you may look for them, but you will not find them.

"But so far as we can learn the law on this subject, we think that a slave cannot be guilty of adultery, when this crime can only be committed by a married person; nor of polygamy; nor be held liable on a wife's contracts, or for necessities supplied to her; nor made incompetent as a witness on the ground of the relation of marriage. How far all this may be modified by the consent of the owner, may be doubtful; but we do not see that even *such consent* could make the marriage altogether a *legal marriage*, and invest it with all the rights duties and relations of marriage, unless it was such consent and under such circumstances as made it *operate as a manumission, as in the case of a devise to a slave.*"

Now I hold up your code that professes to be the pink of morality and religion, and I tell you, sirs, that that thing which has grown for hundreds of years, has not one word in it that acknowledges the mere humanity of the negro. And I will bring it home to you. Going along the street is your mule team and your negro driver with it. Will you tell me the difference between the legal status of the negro, and that of the mule? If you can, pray do. Can the negro own the hat on his head, any more than the mule owns the halter on his? Can the negro own the leathern shoes on his feet, any more than the mule the iron shoes on his? Nay, more and more horrible. Can the negro own his wife that sleeps in his bosom, any more than the mule can own his mate in the stall? Can the negro own his children, born of this so-called marriage, any more than the swine owns her farrow? And that is the moral and Christian institution of slavery! These are the concomitants that aid in making up—and I speak it in no offensive sense—the slave aristocracy so-called. By taking one slave for a bad debt, I once got into that class; but I got out of it just as quick as I could.

Mr. BERRY, of Prince George's. Will the gentleman inform us how he disposed of him?

Mr. SANDS. I told him to go, and not bother me any more; [laughter] and he went; [continued laughter] and I never got any compensation for him. [Loud laughter.]

Now, gentlemen, I do not want you